

REMARKS/ARGUMENTS

Claims 11-15 are currently pending in this application. By the present amendment, claims 11 and 12 have been amended. No new matter has been added. Claims 13-14 are canceled herewith without prejudice or disclaimer of subject matter therein or equivalents thereof. The amendment is submitted in response to the Office Action dated July 7, 2009.

I. STATUS OF THE SPECIFICATION

The sequence listing filed on July 29, 2008 has been objected to under 35 Section 132(a) because “it introduces new matter into the disclosure”. Applicant respectfully submits the replacement sequence listing attach which addresses the particular problems with the sequence listing. In particular, in SEQ ID NO: 2, amino acid residue 166 was corrected to glycine and residue 265 was corrected to arginine. Accordingly, any new matter has been canceled and the sequence listing has been corrected. Applicant respectfully requests entry of the amendments to the specification and withdrawal of the objection to the sequence listing submitted herewith.

II. STATUS OF THE CLAIMS

Claims 11-15 are objected to because of the informality of missing the term “sequence” after “anti-sense nucleotide”. Appropriate correction is required.

Claims 11-15 are rejected under 35 U.S.C. Section 112, second paragraph (hereinafter, Section 112, Par. 2) as being indefinite. In particular, claim 11 is rejected for the last step of the claimed method is inconsistent with the preamble. It is suggested that the claim be amended to indicate that expression of the anti-sense nucleotide sequence causes

inhibition in plant growth. Claim 12 is rejected for the recitation “transforming said recombinant vector to a transformant” as being confusing and unclear.

Claims 11-15 are rejected under 35 U.S.C. Section 112, first paragraph (hereinafter, Section 112, Par. 1) for failing to comply with the written description requirement. This is due to the current version of the amino acid sequence of SEQ ID NO: 2 containing two changes from the version filed on August 18, 2006 and the priority documents, which represents new matter.

Claim 13 is rejected under Section 112, Par. 1 for allegedly failing to comply with the enablement requirement.

Applicant respectfully traverses the rejections and requests reconsideration for all pending claims in light of the remarks below.

III. OBJECTION TO CLAIMS

Appropriate correction to the claims are believed to be made by the correction to claims 11 and 12 with the term “sequence” as required. Accordingly, Applicant respectfully requests entry of the amendments to the claims and withdrawal of the objection to the claims.

IV. SECTION 112, PAR. 2

Claim 11 has been amended with Examiner’s suggested language which Applicant thanks Examiner for suggesting. Claim 12 has further been amended to clarify that *Agrobacterium tumefaciens* is being transformed with the recombinant vector. Amended claims 11-12 and dependent claim 15 are believed to be made definite and particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Accordingly, withdrawal of the rejection of these claims under Section 112, Par. 2 is respectfully requested.

V. SECTION 112, PAR. 1

The amendment to the sequence listing as discussed with regard to the amendments to the specification is believed to make moot the rejection of claims 11, 12 and 16 under Section 112, par. 1. The corrections to residue 166 and residue 265 have been made which result in no new matter being introduced.

Furthermore, in the interest of moving prosecution of the present application forward, Applicant respectfully requests that claims 13-14 be canceled without prejudice or disclaimer of the subject matter therein or equivalents thereof. Accordingly, the rejection against these claims is believed to be moot.

VI. CONCLUSION

It is the Applicant's belief that all of the claims are in condition for allowance and action towards that effect is respectfully requested. If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

Respectfully submitted,

Date: November 9, 2009

/Juneko Jackson/
Juneko Jackson (Reg. No. 48,870)
Intellectual Property Law Group LLP
Attorney for Applicants
(408) 286-8933